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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/687,700 | 10/20/2003 | Takao Tsutaya | 58647-171 | 2965 |

7590 12/22/2004
McDERMOTT, WILL & EMERY
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

NOORI, MAX H

ART UNIT PAPER NUMBER

2855

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/687,700 | Applicant(s) TSUTAYA, TAKAO | |
| | Examiner Max Noori | Art Unit 2855 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-115 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 14-17, 23, 52-54, 65-68, 78-81 and 87 is/are rejected.
- 7) ☒ Claim(s) 5-13, 18-22, 24-51, 55-64, 69-77, 82-86 and 88-115 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/20/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claims 1-13, 52-76 are objected to because of the following informalities: the term "a installation" should change to -- an installation -- in claims 1, 52, and 65. Appropriate correction is required. Applicant is advised to check claims for similar typographic error.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, are rejected under 35 U.S.C. 102(b) as being anticipated by Applicant Admitted Prior Art (hereafter AAPA).

Regarding claim 1, AAPA as shown in figure 25B discloses a diaphragm type load detection sensor with features of the claimed invention including a mounting portion (element 1), a strain generating portion (element 2), and a load applied portion (element 3), such that strain gauge provided on the strain generation portion with sensing element evenly provided (see figure 24) on substantially whole periphery and a predetermined distance from the center of the load applied (element f) portion.

Regarding claim 2, AAPA show a projection in one side of the sensing element on the other side.

Regarding claims 3-4, the pattern provided in AAPA (figure 24) is similar to that of the claimed invention.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14- 17, 23, 52-54, 65-68, 78-81 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA as applied to claim 1 above, and further in view of Brosh et al.

Regarding claim 14-17, 52-54, 65-68, 78-81, AAPA disclose a load cell teaching or suggesting the features of the claimed invention. Although the discussion and the related figure indicates that the load cell is being used for an electronic scale, but no elaboration is presented in the specification to generally draw such conclusion. However, the use of other fundamental components such as a case , various transmission elements, platform, etc, for an electronic scale is notoriously known and appears to be unavoidable requirement for a scale to operate. For example, Brosh et al., is presented to show that a electronic scale has various transmission elements (any one of elements 30, 31, 35, 36, 37, 16 or 38) to transfer the original weight to the weight measuring means, and also has casing or housing (see for example, claim 6) for guidance of the inner elements or for general protection from potential environment damage. Therefore, it would have been obvious for a skilled artisan at the time of the invention to modify AAPA if it is

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being used as a scale to provide with various necessary components as discussed above in order to have a device to perform correctly.

Regarding claims 23, 87, the transmission elements are coupled to load apply portion

6. Claims 5-13, 18-22, 24-51, 55-64, 69-77, 82-86, and 88-115 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims have specific limitations regarding the position of the strain gauge terminals or the provision of flexible coupling, which is not shown in fairly suggested in the prior art.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Max H. Noori whose telephone number is (571) 272-2185. The examiner can normally be reached on Tuesday-Friday from 8:00 AM to 6:00 PM.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group-receptionist whose telephone number is (703) 308-0956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The central fax number is (703) 827-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHN

Thursday, December 16, 2004



MAX NOORI
PRIMARY EXAMINER